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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,725	02/11/2004	Sanford M. Wichner	59826	2808

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EXAMINER

DANG, HUNG XUAN

ART UNIT PAPER NUMBER

2873

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,725

Applicant(s)

WICHNER, SANFORD M.

Examiner

Hung X. Dang

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 and 14-19 is/are allowed.
- 6) ☒ Claim(s) 8, 9, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 10 and 13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Information Disclosure Statement

1. The Information disclosure Statements filed on 2/11/04 has been considered.

Claims Rejection Under 35 USC - 102

2. (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 8, 9, 11 and 12 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by **Schubert** (6,595,635).

Schubert discloses apparatus for positioning a magnifying lens comprises an eye shield assembly, an attachment assembly for removably attaching the eye shield assembly to the visor, the attachment assembly including: an eye shield support; and a telescopic arm having a proximal end and a distal end, the proximal end coupled with the support for pivotal movement about a first axis, the distal end coupled with the eye shield assembly. (see figures 1, 2, 7, 8 and the related disclosure).

Allowable Subject Matter

3. Claims 1-7 and 14-19 are allowed.
4. Claims 10 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons For Allowance

5. The following is an Examiner's Statement of Reasons for Allowance:

The prior art does teach a generally flexible, elastic band coupled with and spanning between the support members and held in tension by the support members, a visor-receiving slot being defined between the band and the eye shield assembly as recited in independent claim 1.

The prior art does not teach the eye shield assembly includes first and second lenses connected by a bridge, the bridge including a central portion coupled with the arm, and first and second outer portions, the first and second outer portions being coupled with the central portion for pivotal movement about generally parallel first and second axes, the first and second outer portions each including a hinge permitting pivotal movement of the first and second lenses about third and fourth axes, the third and fourth axes not intersecting the first and second axes.

6. Any inquiry concerning this communication should be directed to Examiner Dang at telephone number (571) 272-2326.

3/5



HUNG DANG

PRIMARY EXAMINER

TC 2800